

PATENT

JAN 05 2004

OFFICIALApplication No. 09/350,875
Attorney Docket No.: 98-113**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants:

Walker et al.

Application No.: 09/350,875

Filed: July 9, 1999

For: MULTI-TIER PRICING OF
INDIVIDUAL PRODUCTS BASED
ON VOLUME DISCOUNTS

Customer No. 22927

Group Art Unit: 3627

Examiner: Gerald J. O'Connor

PETITION UNDER 37 C.F.R. §1.181

Attorney Docket No. 98-113

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22313-1450.Dated: January 5, 2004 By: V. S. Leliever

Veronika S. Leliever

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**PETITION UNDER 37 C.F.R. § 1.181**
INVOLVING AN *EX PARTE* ACTION WHICH IS NOT SUBJECT TO APPEAL**Points to be Reviewed**Whether an Examiner may hold an Application Abandoned for Failure to Respond less
than seven months after a Notice of Appeal has been timely filed / received.

PATENT

Application No. 09/350,875
Attorney Docket No.: 98-113**Summary of Facts Involved**

<u>Filing</u>	<u>Date</u>
Final Office Action mailed	December 03, 2003
Notice of Appeal with sufficient extension fees filed	June 03, 2003
Notice of Appeal received by PTO	June 05, 2003
Notice of Abandonment mailed	December 15, 2003
Examiner Interview	January 05, 2004

1. The Examiner mailed a Notice of Abandonment for failure to respond to an Office Action only six months and ten days (i.e. less than seven months) after a timely Notice of Appeal was received by the PTO.
2. On January 02, 2004 Applicants submitted to the Examiner a written request for reconsideration of the Abandonment. This written request was preceded by multiple telephone requests to the Examiner. To the best of Applicants' knowledge, the Examiner has not withdrawn the Abandonment of the present Application.
3. On January 05, 2004, during a telephone interview between the Examiner and Applicants' representative, the Examiner indicated that although the Examiner received Applicants' request for reconsideration, the Examiner did not have the authority to change the status of the Application from that of Abandoned. The Examiner recommended that Applicants file a Petition to Revive.
4. An Appeal Brief was timely filed on January 05, 2004 with the required five months of extension fees.

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Application No. 09/350,875
Attorney Docket No.: 98-113**Action Requested**

In short, Applicants request that the Abandonment of the Application be withdrawn. Applicants specifically request that the Application be considered as never abandoned, and the Appeal Brief filed on January 05, 2004 (with sufficient fees for extension of time) be accepted as timely filed.

Full Statement of Facts Involved

On December 03, 2002 a Final Office Action was mailed for the present Application. The time period for reply to this Office Action was set at three months, this date being March 03, 2003.

On June 03, 2003 (six months from the mailing date of the Final Office Action), Applicants filed a Notice of Appeal, accompanied by authorization to charge Applicants' Deposit Account for three months of extension fees (in the amount of \$460.00).

On June 05, 2003 the Notice of Appeal was received and entered by the PTO, with the appropriate extension fees accepted. The accompanying File Contents History from the PTO's PAIR system demonstrates this fact.

On December 15, 2003, the Examiner mailed a Notice of Abandonment for Failure to Reply to an Office Action. This Notice of Abandonment was mailed less than seven months from the date the Notice of Appeal was received by the PTO.

From the period of December 15, 2003 to January 05, 2004 Applicants have telephone the Examiner multiple times to discuss the inappropriateness of the Abandonment of the Application, providing the Examiner with various authorities that support the fact that Applicants have up to seven months from the date the Notice of Appeal is filed in the PTO to file an Appeal Brief. The Examiner disagreed with Applicants' position.

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On December 19, 2003 Applicants filed Petition for Extension of Time under 37 CFR 1.136(a), requesting a five month extension of time within which the Appeal Brief may be filed. The petition was accompanied by an authorization to charge Applicants' Deposit Account for the amount of \$1,005.00 (the appropriate fee for a five month extension of time). The result of this petition was to extend the time within which Applicants may file the Appeal Brief to January 05, 2004. A return receipt postcard received by Applicants from the PTO indicates that this petition and authorization of payment of extension fees was received by the PTO on January 02, 2004. A copy of this return receipt postcard is attached hereto.

On January 02, 2004 (less than one month from the mailing date of the Notice of Abandonment), Applicants faxed to the Examiner a written request for reconsideration of the Abandonment and telephoned the Examiner, leaving a message indicating that the fax was sent. The faxed request for reconsideration again reiterated the authorities for the fact that Applicants have up to seven months from the date of the Notice of Appeal to file an Appeal Brief and requested that the Examiner withdraw the Abandonment. No response has been received from the Examiner regarding this fax. A copy of the fax, and the transmission confirmation from Applicants' fax machine, is attached hereto.

On January 05, 2004, during a telephone interview between the Examiner and Applicants' representative, the Examiner indicated that although the Examiner received and considered the Request for Reconsideration, faxed to the Examiner on January 02, 2004, the Examiner did not have the authority to change the status of Abandonment. A copy of the Interview Summary for this telephone interview is attached hereto.

[On January 05, 2004, Applicants filed an Appeal Brief for the present Application.] ?
where

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Application No. 09/350,875
Attorney Docket No.: 98-113**Arguments**

The Appeal Brief was timely filed within seven months of the date of the Notice of Appeal. Accordingly, the Application was prematurely and incorrectly held to be Abandoned for Failure to Reply to an Office Action.

(1) 35 U.S.C. 134 pertains to Appeals to the Board of Patent Appeals and Interferences. This section of the statute does not set any maximum time periods for filing an Appeal Brief.

(2) 35 U.S.C. 135 sets a six month maximum time period for replying to an Office Action; this section does not apply to Appeal Briefs.

(3) An Applicant has two months from the date of appeal to file an Appeal Brief. The date of appeal is the date the PTO receives the Notice of Appeal. This time period for filing an Appeal Brief may be extended up to five months in addition to the two months initially allotted. MPEP 1206 (8th Editions).

(4) 35 U.S.C. 136 authorizes the payment of fees for extensions of time within which to provide correspondence to the PTO.

(5) The PTO has consistently and unambiguously interpreted 35 U.S.C. 136 as allowing up to seven (7) months after the date of the Notice of Appeal for filing an Appeal Brief, if the appropriate extension fees are paid.

See, for example, "Training and Implementation Guide for the Final Rule: Changes to Patent Practice and Procedure, effective December 1, 1997":

Section 1.136: Section 1.136(a)(1) is amended to recite the availability of a maximum of five rather than four months as an extension of time, subject to any maximum period for reply set by statute. For example, when a one-month or 30-day period is set for reply to a restriction requirement or for completing a reply under §1.135(c), that period may be extended up to the six-month statutory (35 U.S.C. 133) maximum. In addition, as the two-month period set in § 1.192(a)

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Application No. 09/350,875
Attorney Docket No.: 98-113

for filing an appeal brief is not subject to the six-month maximum period specified in 35 U.S.C. 133, the period for filing an appeal brief may be extended up to seven months." (emphasis added; available at <http://www.uspto.gov/go/rules/changppp.htm>).

See also, "Petitions Practice within the PTO on Patent Matters", Section (VI) (G), fourth paragraph:

"In addition, as the two-month period set in § 1.192(a) for filing an appeal brief is not subject to the maximum six-month maximum period; the filing of an appeal brief may be extended up to seven months by paying for a five-month extension of time." (available at <http://www.uspto.gov/web/offices/pac/dapp/opla/petprac.htm#petexof>).

(6) Since Applicants have filed an Appeal Brief for the present Application within seven (7) months of the date of the Notice of Appeal and paid the appropriate five months of extension fees, the Appeal Brief was timely filed. Accordingly, the Notice of Abandonment of the Application was prematurely issued and should be withdrawn.

Petition Proper

This petition is timely filed, having been filed within two months of the Notice of Abandonment for Failure to Reply to an Office Action mailed December 15, 2003. A request for reconsideration has been made to the Examiner, however the Examiner has maintained the Abandonment.

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Application No. 09/350,875
Attorney Docket No.: 98-113**Conclusion**

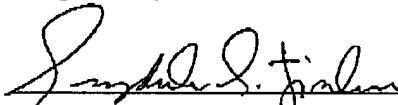
The Assistant Commissioner is hereby authorized to charge \$130.00 petition fee (37 CFR 1.17(h) to Deposit Account No. 50-0271. Order number 98-113. The Assistant Commissioner is further authorized to charge any additional fees which may be required for the submission of this paper, or credit any overpayment to Deposit Account No. 50-0271.

Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this submission timely, and charge any fee for such an extension to Deposit Account No. 50-0271. A duplicate copy of this authorization is enclosed for such purposes.

Upon USPTO's finding that no petition fee is required in this instance, Applicants respectfully request a refund of the petition fee. Thank you for your consideration in this matter.

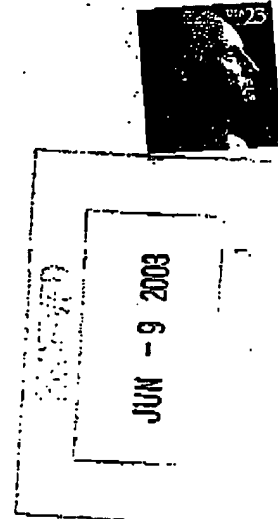
Respectfully submitted,

January 5, 2004
Date


Magdalena M. Fincham
Attorney for Applicants
Registration No. 46,085
Walker Digital, LLC
(203) 461-7041 /direct
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Mfincham@walkerdigital.com

COPY

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Aimée J. Knoller
Records Manager
Walker Digital Management, LLC
Five High Ridge Park
Stamford, CT 06905



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|||||

Commissioner for Patents:

Date Received:

Applicant: WALKER et al.
Appl. No.: 09/350,875
Filing Date: July 9, 1999
Title: MULTI-TIER PRICING OF INDIVIDUAL PRODUCTS BASED
ON VOLUME DISCOUNTS
(98-113)

Sir:

Please acknowledge receipt of the following papers by stamping the date received on this card and returning the same to the addressee:

- Combined Notice of Appeal from the Primary Examiner to the Board of Patent Appeals and Interferences & Petition for Extension of Time, 2 pp., (x2).

Data mailed: June 3, 2003.

RECEIVED
JUN - 5 PM 3:04
BOARD OF APPEALS
AND INTERFERENCES



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/350,875	07/09/1999	JAY S. WALKER	WD2-98-113	8896

22927 7590 06/12/2003

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

COPY

EXAMINER

O CONNOR, GERALD J

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 06/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

File No:	98-113
Attorney:	MMF
Due Date:	09-12-03
Docketed:	06-16-03

JUN 16 2003

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Advisory ActionApplication No.
09/350,875

Applicant(s)

Walker et al.

Examiner

O'Connor

Art Unit

3627

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

THE REPLY FILED June 5, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires three months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on June 5, 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE:

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because:

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

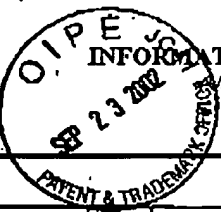
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: noneClaim(s) objected to: noneClaim(s) rejected: 1-15, 32, and 57-71Claim(s) withdrawn from consideration: none



8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 20
10. ☐ Other:

ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

	INFORMATION DISCLOSURE CITATION (Use several sheets if necessary)		Docket Number (Optional) 98	Application Number 09/350,875
	Applicant(s) JAY S. WALKER et al.			Filing Date July 9, 1999
				Group Art Unit -3627

U.S. PATENT DOCUMENTS

(Part of #20)

*EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	A	5,056,019	10.8.1991	Schultz et al.	364	405	
	B	5,444,630	8.22.1995	DLUGOS	364	464.02	
	C	5,537,314	7.16.1996	KANTER	364	406	
	D	US6,332,128 B1	12.18.2001	NICHOLSON	705	14	
	E	2001/0056376 A1	12.27.2001	Walker et al.	705	15	

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 SEP 25 2002
 GROUP 3600

FOREIGN PATENT DOCUMENTS

REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER

DATE CONSIDERED

June 10, 2003

EXAMINER: Initial citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Walker Digital**Fax**

To: Examiner O'Connor	From: Magdalena Fincham
Fax: 703-746-3976	Pages: 4 (including cover)
Phone: 703-305-1525	Date: 1/2/04
Re: App. 09/350,875	Direct #: 203-461-7091

Called + left
message, informing
Ex. O'Connor of the
sending of this fax
on 1/2/04
J. Fincham

TO: Examiner O'Connor
FROM: Magdalena M. Fincham

RE: Application No. 09/350,875

Examiner O'Connor:

I understand there has been some confusion as to the maximum allowable time for extensions for filing an Appeal Brief. I have included below various authorities that clarify that an Appeal Brief may be filed up to 7 months from the time of filing a Notice of Appeal. I draw your attention in particular to the last item (#5) on the list below, which includes the PTO's unambiguous interpretations on this issue, as posted on the PTO website.

At this time, I would like to clear this issue up directly with you and request a withdrawal of the Abandonment, based on the authorities below. The Appeal Brief will be timely filed on Monday, January 5, 2004. If we cannot resolve this issue by that time, I will also be filing a Petition to the Commissioner on Monday, January 5, formally requesting a withdrawal of the Abandonment. I appreciate your time on this matter and hope to resolve it expeditiously. I invite you to call me at (203) 461 - 7041 or e-mail me at mfincham@walkerdigital.com to discuss this issue at any time.

Best Regards,



Magdalena M. Fincham

Reg. No. 46,085

Date: January 02, 2004

(1). §1.136 Extensions of time.

(a)(1) If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply, if a petition for an extension of time and the fee set in §1.17(a) are filed

(2). A maximum period for Office Actions is set by statute:

35 U.S.C. 133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

(3). No maximum period for Appeal Briefs is set by statute

35 U.S.C. 134 is the part of the statute on Appeals to the Board. It does not set any maximum periods for anything.

(4). MPEP 1206 (8th Ed. page 1200-7)

"TIME FOR FILING APPEAL BRIEF"

...

The usual period of time in which appellant must file his or her brief is 2 months from the date of appeal. The Office date of receipt of the notice of appeal (and not the date indicated on any Certificate of Mailing under 37 CFR 1.8) is the date from which this 2 month time period is measured.

...

In the event that the appellant finds that he or she is unable to file a brief within the time period allotted by the rules, he or she may file a petition, with fee, to the

Technology Center (TC), requesting additional time under 37 CFR 1.136(a). Additional time in excess of 5 months will not be granted unless extraordinary circumstances are involved under 37 CFR 1.136(b)."

NOTE IN PARTICULAR:

(5). The PTO unambiguously interprets this rule as allowing up to 7 months after the filing of the Notice of Appeal.

For example, see "Training and Implementation Guide for the Final Rule: Changes to Patent Practice and Procedure, effective December 1, 1997":

"Section 1.136: Section 1.136(a)(1) is amended to recite the availability of a maximum of five rather than four months as an extension of time, subject to any maximum period for reply set by statute. For example, when a one-month or 30-day period is set for reply to a restriction requirement or for completing a reply under §1.135(c), that period may be extended up to the six-month statutory (35 U.S.C. 133) maximum. In addition, as the two-month period set in § 1.192(a) for filing an appeal brief is not subject to the six-month maximum period specified in 35 U.S.C. 133, the period for filing an appeal brief may be extended up to seven months." (emphasis added; available at <http://www.uspto.gov/go/rules/changppp.htm>).

See also

"Petitions Practice within the PTO on Patent Matters", Section (VI) (G), fourth paragraph:

"In addition, as the two-month period set in § 1.192(a) for filing an appeal brief is not subject to the maximum six-month maximum period, the filing of an appeal brief may be extended up to seven months by paying for a five-month extension of time."

(available at

<http://www.uspto.gov/web/offices/pac/dapp/opla/petprac.htm#petexof>)

PTO/SB/22 (08-03)

Approved for use through 7/31/2005. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional) 98-113
In re Application of Jay S. WALKER et al.		
Application Number 09/350,875	Filed July 9, 1999	
For MULTI-TIER PRICING OF INDIVIDUAL PRODUCTS BASED ON VOLUME DISCOUNTS		
Art Unit 3627	Examiner O'CONNOR, Gerald	

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$ _____
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$ _____
<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$ _____
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$ _____
<input checked="" type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$ <u>2,010</u>

☒ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: \$ 1,005

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☒ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-0271

I have enclosed a duplicate copy of this sheet.


I am the ☐ applicant/inventor

☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number 46,085

☐ attorney or agent under 37 CFR 1.34(a).
Registration number if acting under 37 CFR 1.34(a) _____

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

<u>December 19, 2003</u> Date	 Signature
<u>203.461.7041</u> Telephone Number	<u>Magdalena M. Fincham</u> Typed or printed name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 2 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


If you need assistance in completing the form, call 1-800-PTOL-9100 and select option 2

PTO/SB/22 (08-03)

Approved for use through 7/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional) 98-113								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="padding: 2px;">In re Application of Jay S. WALKER et al.</td> </tr> <tr> <td style="padding: 2px;">Application Number 09/350,875</td> <td style="padding: 2px;">Filed July 9, 1999</td> </tr> <tr> <td colspan="2" style="padding: 2px;">For MULTI-TIER PRICING OF INDIVIDUAL PRODUCTS BASED ON VOLUME DISCOUNTS</td> </tr> <tr> <td style="padding: 2px;">Art Unit 3627</td> <td style="padding: 2px;">Examiner O'CONNOR, Gerald</td> </tr> </table>			In re Application of Jay S. WALKER et al.		Application Number 09/350,875	Filed July 9, 1999	For MULTI-TIER PRICING OF INDIVIDUAL PRODUCTS BASED ON VOLUME DISCOUNTS		Art Unit 3627	Examiner O'CONNOR, Gerald
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For MULTI-TIER PRICING OF INDIVIDUAL PRODUCTS BASED ON VOLUME DISCOUNTS										
Art Unit 3627	Examiner O'CONNOR, Gerald									
<p>This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.</p> <p>The requested extension and appropriate non-small-entity fee are as follows (check time period desired):</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 80%;"> <p><input type="checkbox"/> One month (37 CFR 1.17(a)(1))</p> <p><input type="checkbox"/> Two months (37 CFR 1.17(a)(2))</p> <p><input type="checkbox"/> Three months (37 CFR 1.17(a)(3))</p> <p><input type="checkbox"/> Four months (37 CFR 1.17(a)(4))</p> <p><input checked="" type="checkbox"/> Five months (37 CFR 1.17(a)(5))</p> <p><input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: \$ <u>1,005</u></p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input checked="" type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>50-0271</u></p> <p>I have enclosed a duplicate copy of this sheet.</p> <p>I am the <input type="checkbox"/> applicant/inventor</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>46,085</u></p> <p><input type="checkbox"/> attorney or agent under 37 CFR 1.34(a). Registration number if acting under 37 CFR 1.34(a) _____</p> </div> <div style="width: 15%; text-align: right;"> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ <u>2,010</u></p> </div> </div>										
<p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> <p><u>December 19, 2003</u></p> <p style="text-align: center;">Date</p> <p><u>203.461.7041</u></p> <p style="text-align: center;">Telephone Number</p> </div> <div style="width: 45%; text-align: center;">  <p>Signature</p> <p><u>Magdalena M. Fincham</u></p> <p>Typed or printed name</p> </div> </div>										
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p>										
<p><input checked="" type="checkbox"/> Total of <u>2</u> forms are submitted.</p>										

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Applicants' Interview Summary

To: Examiner Gerald O'Connor
Art Unit 3627
703-305-1525

COPY

From: Magdalena M. Fincham
Attorney for Applicants
Reg. No. 46,085
203-461-7041

RE: Application Serial No. 09/350,875

Date of Telephone Interview: January 05, 2004
Participants: Examiner O'Connor and Magdalena Fincham

Summary of Interview:

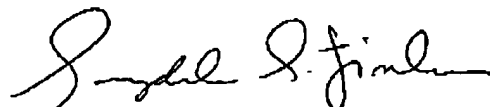
Examiner O'Connor informed Applicants' representative that the Examiner received the Request for Reconsideration, faxed to the Examiner on January 02, 2004, regarding the Notice of Abandonment of the present application. Examiner O'Connor further informed Applicants' representative that the Examiner could not change the status of the present application from its present state of Abandonment. Examiner O'Connor recommended that Applicants file a Petition to Revive the present application in a timely manner to change the status of the Application.

Applicants' representative requested an Advisory Action or an Examiner's Telephone Interview, documenting that the Examiner received the Request for Reconsideration and is maintaining the abandonment of the present application. The Examiner did not agree to provide either an Advisory Action or an Examiner's Telephone Interview. The reason the Examiner provided for this refusal to provide a written response to the Request for Reconsideration, as best as Applicants' representative could understand it, was that it would not affect the status of the Application.

Applicants' representative informed the Examiner that the Applicants would be submitting an Applicants' Interview Summary, documenting the conversation.

Submitted by:

Date: January 05, 2004



Magdalena M. Fincham
Attorney for Applicants
Reg. No. 46,085